

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference MLC/LCW/2812PC	FOR FURTHER ACTION	See item 4 below
International application No. PCT/GB2006/001552	International filing date (<i>day/month/year</i>) 27 April 2006 (27.04.2006)	Priority date (<i>day/month/year</i>) 27 April 2005 (27.04.2005)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant SMITH & NEPHEW, PLC		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 <i>bis</i> .1(a).																								
2.	This REPORT consists of a total of 8 sheets, including this cover sheet. In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 60%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input checked="" type="checkbox"/>	Box No. II	Priority	<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input checked="" type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<input type="checkbox"/>	Box No. VIII	Certain observations on the international application																							
4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44 <i>bis</i> .3(c) and 93 <i>bis</i> .1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44 <i>bis</i> .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 30 October 2007 (30.10.2007) Authorized officer <p style="text-align: center; font-size: 1.2em;">Nora Lindner</p> e-mail: pt02.pct@wipo.int
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2006/001552

International filing date (day/month/year)
27.04.2006

Priority date (day/month/year)
27.04.2005

International Patent Classification (IPC) or both national classification and IPC
INV. A61M1/00 A61M3/02 A61M27/00

Applicant
SMITH & NEPHEW, PLC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl
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Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2006/001552

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ on paper
 - ☐ in electronic form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in electronic form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. II Priority

1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43*bis*.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2006/001552

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

☐ the entire international application

☒ claims Nos. 35-45

because:

☒ the said international application, or the said claims Nos. 35-45 relate to the following subject matter which does not require an international search (*specify*):

see separate sheet

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

☒ no international search report has been established for the whole application or for said claims Nos. 35-45

☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13*ter*.1(a) or (b).

☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☒ See Supplemental Box for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2006/001552

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-34
Inventive step (IS)	Yes: Claims	
	No: Claims	1-34
Industrial applicability (IA)	Yes: Claims	1-34
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

and /or

2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

Re Item III.

Rules 39.1(iv) and 67.1(iv) PCT - Methods for treatment of the human or animal body by therapy and by surgery

Re Item V.

Reference is made to the following documents:

- D1 : US 2003/171675 A1 (ROSENBERG LIOR [IL]) 11 September 2003 (2003-09-11)
D2 : WO 2004/037334 A (SMITH & NEPHEW [GB]; BLOTT PATRICK LEWIS [GB];
GREENER BRYAN [GB]; HAR) 6 May 2004 (2004-05-06)
D3: WO 2005/105175 A (SMITH & NEPHEW [GB]; BLOTT PATRICK LEWIS [GB];
GREEN CLARE [GB]; MARTI) 10 November 2005 (2005-11-10)
D4: WO 2005/051461 A (SMITH & NEPHEW [GB]; BLOTT PATRICK LEWIS [GB];
GREENER BRYAN [GB]; HAR) 9 June 2005 (2005-06-09)

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 (paragraphs 3, 47-52, figure 1) discloses (the references in parentheses applying to this document):

An apparatus for aspirating, irrigating and/or cleansing a wound, comprising a fluid flow path, comprising a conformable wound dressing (10), having a backing layer (11,13,14,15) which is capable of forming a relatively fluid-tight seal or closure over a wound, at least one pipe (20, 22) which passes through and/or under the wound-facing layer (wound-facing part of 11) to allow irrigation (20) and/or aspiration (22) of the wound, wherein the point at which the at least one pipe passes through and/or under the wound-facing face formings a relatively fluid-tight seal or closure over the wound, when in line; a fluid reservoir connectable by a fluid supply tube to the at least one pipe (implicit) and at least one device for moving fluid through the wound dressing to the wound (means for introduction of the debriding composition and/or

acoustic medium) and/or moving fluid from the wound (means for evacuating liquid and/or semi-solid material from the acoustic chamber and/or for creating a vacuum), where the apparatus comprises means (18) for applying high frequency vibrational energy to the wound bed.

- 2.2 Note that document D2 (page 31, lines 23-29 and embodiment of figure 1) also discloses all the technical features of claim 1, if one considers that the pulsations created by the piezoelectric transducer in the diaphragm pump are also transmitted to the wound bed, since the fluid evacuated from the dressing is in communication with the wound bed. Therefore the subject-matter of claim 1 is not new over D2, either, in the sense of Articles 33(1) and (2) PCT.

3 INDEPENDENT CLAIM 33

- 3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 33 is not new in the sense of Article 33(2) PCT.

Document D1 (paragraphs 3, 47-52, figure 1) discloses (the references in parentheses applying to this document):

A conformable wound dressing (10) comprising a backing layer (11,13,14,15) with a wound-facing face which is capable of forming a relatively fluid-tight seal or closure over a wound, at least one pipe (20, 22) which passes through and/or under the wound-facing face to allow irrigation (20) and/or aspiration (22) of the wound, the point at which the or each inlet pipe and the or each outlet-pipe passes through and/or under the wound-facing face forming a relatively fluid-tight seal or closure over the wound in use, wherein the wound dressing comprises means (18) for applying high frequency vibrational energy to the wound bed.

4 DEPENDENT CLAIMS 2-32, 34

Dependent claims 2-32, 34 do not appear to contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT), see documents D1-D4 and general knowledge of the man skilled in the art of wound

treatment and/or ultrasound therapy.

Re Item VI.

Intermediate documents D3 (whole document) and D4 (page 30, lines 19-25; page 45, lines 22-26, fig. 5) may become pertinent for questions of novelty and validity of priority.